

# PATENT COOPERATION TREATY

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### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)


(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P5292PC00	<b>FOR FURTHER ACTION</b>		See Form PCT/PEA/416
International application No. PCT/IS2004/000009	International filing date (day/month/year) 16.07.2004	Priority date (day/month/year) 17.07.2003	
International Patent Classification (IPC) or national classification and IPC G01G19/30, B07C5/18			
Applicant MAREL HF.			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
  - a. ☐ sent to the applicant and to the International Bureau) a total of sheets, as follows:
    - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
    - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
  - b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

Date of submission of the demand  17.02.2005	Date of completion of this report  27.12.2005
Name and mailing address of the international preliminary examining authority:   European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer  Ganci, P  Telephone No. +31 70 340-3384



**INTERNATIONAL PRELIMINARY REPORT  
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International application No.  
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**Box No. I Basis of the report**

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

**Description, Pages**

1-8 as originally filed

**Claims, Numbers**

1-47 as originally filed

**Drawings, Sheets**

1/1 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	1-47
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-47
Industrial applicability (IA)	Yes: Claims	1-47
	No: Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

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**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

**1. Reference is made to the following documents:**

D1: WO-A-0000036 (SCANVAEGT INTERNATIONAL AS)(2000-01-06)  
D2: US-A-3945448 (SELLERS KENNETH W) (1976-03-23)  
D3: WO03069285 (MAREL HF,GUDJONSSON PETUR) 2003-08-21

D3 is a P-document and is not considered at present, assuming that the claimed priority of the present application is correct. In an eventual regional phase however, it is possible that D3 will be part of the prior art when considering novelty.

**2. NOVELTY**

**2.1 Document D1, which is considered to represent the most relevant state of the art, discloses a method for batching items into receptacles, said method comprising**  
- determining an item weight by weighing the item on a first scale  
- directing the item into the selected receptacle.

**2.2 The subject-matter of claim 1 differs from document D1 in that comprises**  
- determining initial weights of a plurality of receptacles by weighing the receptacles on receptacles scales,  
- based on a comparison of the weight determined by weighing an item on the first scale and the initial weights of the receptacles, selecting one of the plurality of receptacles for the item thereby forming a batch,  
- determining a resulting weight of the selected receptacle by weighing the receptacle on a corresponding receptacle scale.

**2.3 Therefore the subject-matter of claim 1 is new and meets the requirements of Article 33(2) PCT.**

**2.4 The same arguments apply to the corresponding system claim 23 which also meets**

the requirements of Article 33(2) PCT.

### **3. INVENTIVE STEP**

**3.1** The problem to be solved by the present application may therefore be regarded as to determine more precisely the weight of the batches and to reduce overweight or underweight.

**3.2** No positive contribution to inventive step can be seen in formulating this problem, because this problem is well known to a person skilled in the art.

**3.3** The solution proposed in claim 1 cannot be considered as involving an inventive step for the following reasons:

Document D2 discloses (see col.1, lines 5-21, col. 3, lines 24-29, col.3, line 65 - col. 4, line 13, col. 4, lines 24-31, col. 5, lines 27 -31) a system for minimizing the package weight variance based on a continuous comparison between the summation of the accumulation and signal representing the desired ultimate weight.

**3.4** The skilled person would therefore regard it as normal design option to solve the problem from document D1 by the features as disclosed in document D2.

Therefore the subject-matter of claim 1 does not meet the requirements of Article 33(3) PCT.

**4.** The same arguments apply to the corresponding system claim 23 which is thus not inventive.

**5.** Dependent claims 2-22,24-47 do not appear to contain any additional features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT with respect to inventive step (Article 33(3)), the reason being as follows:

**5.1** The subject-matter of claims 2-22,24-47 is considered as normal design option for a

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person skilled in the art.

**6. INDUSTRIAL APPLICABILITY**

**6.1** The subject-matter of the above mentioned claims is considered as industrially applicable and these claims therefore fulfil the requirements of Art. 33(4) PCT.